

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRAD BOLTON,)	
Petitioner,)	Civil Action No. 7:22-cv-00551
)	
v.)	
)	By: Elizabeth K. Dillon
WARDEN STREEVAL,)	United States District Judge
Respondent.)	

ORDER STAYING CASE

Petitioner Brad Bolton, a federal inmate proceeding *pro se*, filed a petition styled as a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In it, he challenges his criminal sentence and seeks relief pursuant to the Fourth Circuit’s decision in *United States v. Wheeler*, 886 F.3d 415 (4th Cir. 2018). *Wheeler* sets forth this circuit’s test to determine when 28 U.S.C. § 2255 is inadequate or ineffective to test the legality of a sentence entitling a federal defendant to file a § 2241 petition instead. *See* 28 U.S.C. § 2255(e) (allowing a habeas petition where the remedy of a § 2255 motion “is inadequate or ineffective to test the legality of his detention”).

Respondent was ordered to respond but has moved to stay the case pending the Supreme Court’s decision on a threshold legal question. (Dkt. No. 17.)

As it has done in several similar cases, and for the reasons set forth in those orders, the court will grant the motion to stay. *See, e.g., Hardy v. Streeval*, No. 7:22-cv-00430 (W.D. Va. Oct. 12, 2022). In brief, the court concludes that the Supreme Court’s forthcoming decision in *Jones v. Hendrix*, No. 21-857 (U.S.), which was argued on November 1, 2022, is likely to impact the question of whether relief is available to Bolton and, at a minimum, likely to impact the analysis the court will employ in analyzing Bolton’s petition. Accordingly, the court finds that a stay would serve the interest of judicial efficiency and that a stay is otherwise appropriate.

Accord Spaulding v. Streeval, No. 7:22-cv-118, (W.D. Va. June 29, 2022) (order staying § 2241 petition pending decision in *Jones v. Hendrix*); *Pryor v. Streeval*, No. 7:22-cv-193, 2022 WL 2110849 (W.D. Va. June 10, 2022) (same).

It is therefore ORDERED that respondent's the motion to stay (Dkt. No. 17) is GRANTED, and this matter is STAYED pending a decision in *Jones v. Hendrix*, No. 21-857 (U.S.).

It is further ORDERED that respondent shall file a response to the petition not later than 30 days after the Supreme Court issues its decision in *Jones v. Hendrix*. Bolton may file a reply not later than 30 days after the respondent's response is filed.

Entered: April 19, 2023.

/s/ Elizabeth K. Dillon

Elizabeth K. Dillon
United States District Judge